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HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No. 26378 OF 1995

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Between:

Palaka Narayana

……Petitioner

And

Govt. of A.P. rep. by its Secretary,
Social Welfare (F-2) Department,
Secretariat, Hyderabad and three others

……Respondents

:: ORDER ::

Counsel for the Petitioner : Sri M.P. Chandramouli

Counsel for the Respondents : Government Pleader for Social Welfare

Dated: 05-07-2006

In this petition, the petitioner has prayed for quashing order dated 09-10-1995 passed by the State Government dismissing the revision petition filed by him against order dated 30-12-1986 passed by Agent to the Government under the Andhra Pradesh (Scheduled Area) Land Transfer Regulations, 1959.

At the commencement of hearing, learned Government Pleader for Social Welfare made a request for adjournment to enable the respondents to file counter affidavit. But keeping in view the fact that the matter has remained pending for eleven years, I do not consider it proper to accept such belated request.

I have heard learned counsel for the parties and perused the record.

One of the grounds on which the petitioner has questioned the legality of the impugned order is that he was not given effective opportunity of hearing. In paragraph 4 of the writ petition, the petitioner has averred as under:

> "I submit that my other 2 brothers viz. Palaka Mallaiah, Palaka Jagga Rao against whom similar proceedings were initiated have also filed revision before the Government. But the Government did not grant stay of eviction proceedings hence we filed writ petition No:5568 of 1987 in this Hon'ble Court challenging the action. This Hon'ble Court by order dated 24-4-1987 granted interim stay pending disposal of the Revision Petition. I submit that I received a Memo dated 12-1-1995 from the Government directing me to adduce Addl.Evidence/Material if any under my custody in support of my claim in respect of the land within 15 days. I submit that what all evidence I have, I have produced the same before the Lower Tribunals. I submit that the revision was filed by engaging an

Advocate. But the Government has not filed by engaging Advocate. But the Government has not given any notice for hearing the case. Instead of giving a notice for hearing the 1st respondent has sent final order in G.O.Rt.No.967, dated 9-10-1995 stating that the revision petition is rejected. I submit that it is stated in the order that the similar notice was served on me on 10-7-1985, but I have not served such notice. I submit that these notices are only to produce evidence, but not for hearing the case. Further when I am represented by an counsel, there was no need to the 1st respondent to sent notices to me. A I was under the impression that my Advocate could have sent the similar notice, I did not sent the notices sent to me to my Advocate. I submit that the action is wholly arbitrary, illegal. I submit that as per the proviso to Regulation-6, the Government has to pass orders in the Revision after giving a reasonable opportunity being heard. I submit that the 1st respondent has not considered several of the grounds raised by me in my Revision Petition. I raised 10 ground in my revision petition, but the 1st respondent has referred to only 3 grounds. The 1st respondent has not considered the crucial question with regard to the jurisdiction of the 2nd respondent to initiate sumoto enquiry under regulation No: 3(2), and also the question of limitation raised under Regulatioin-7. Thus the order of the 1st respondent is vitiated, both on facts or at law and is also offending the principles of natural justice. I submit that the grounds may be read as part of this affidavit."

Since the respondents have not filed reply to controvert the above reproduced averments, it is reasonable to hold that the order under challenge was passed without giving effective opportunity of hearing to the petitioner and on that ground alone, the same is liable to be quashed.

In the result, the writ petition is allowed. Order dated 09-10-1995 passed by the Government is quashed with the direction that fresh order be passed after giving due notice and opportunity of hearing.

Since the matter has remanded pending for last almost eleven years, I direct the Government to pass appropriate order within a maximum period of three months from the date of receipt of copy of this order.

G.S. SINGHVI, CJ

05-07-2006
ks/GRR